

The House Committee on Judiciary Non-civil offers the following substitute to HB 1153:

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to general provisions regarding offenses against public health and morals, so as to change certain provisions regarding the offense of cruelty to animals; to provide a definition; to clarify provisions relating to the elements of the offenses of cruelty to animals and aggravated cruelty to animals; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to general provisions regarding offenses against public health and morals, is amended by revising Code Section 16-12-4, relating to cruelty to animals, as follows:

"16-12-4.

(a) As used in this Code section, the term:

(1) 'Animal' shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

(2) 'Conviction' shall include pleas of guilty or nolo contendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolo contendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.

(3) ~~'Willful neglect'~~ 'Neglect' means ~~the intentional withholding of~~ failure to provide necessary food and water required by an animal to prevent starvation or dehydration or necessary shelter and ventilation to the extent that the health of the animal is endangered.

(b) A person commits the offense of cruelty to animals when he or she ~~causes death or;~~

(1) Causes death or unjustifiable physical pain or suffering to any animal by an act; or

(2) Having care and control of an animal, causes death or unjustifiable physical pain or suffering to such animal by an act, an omission, or ~~willful~~ neglect.

(c) Any person convicted of a violation of ~~this~~ subsection (b) of this Code section shall be guilty of a misdemeanor; provided, however, that:

(1) Any person who is convicted of a second or subsequent violation of ~~this~~ subsection (b) of this Code section shall be punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or both; and

(2) Any person who is convicted of a second or subsequent violation of ~~this~~ subsection (b) of this Code section which results in the death of an animal shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by imprisonment for not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated, or withheld.

~~(c)~~(d) A person commits the offense of aggravated cruelty to animals when he or she knowingly ~~and maliciously causes~~ commits an act which:

(1) Causes death or physical harm to an animal by rendering a part of such animal's body useless or by seriously disfiguring such animal; or

(2) Tortures an animal by infliction of or subjection to severe or prolonged physical pain.

(e) A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00, or both, provided that any person who is convicted of a second or subsequent violation of ~~this~~ subsection (d) of this Code section shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.

~~(d)~~(f) Before sentencing a defendant for any conviction under this Code section, the sentencing judge may require psychological evaluation of the offender and shall consider the entire criminal record of the offender.

~~(e)~~(g) The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property. Nor shall this Code section be construed as prohibiting training techniques or practices not otherwise specifically prohibited by law.

~~(f)~~(h)(1) Nothing in this Code section shall be construed as prohibiting a person from:

63 (A) Defending his or her person or property, or the person or property of another, from
64 injury or damage being caused by an animal; or
65 (B) Injuring or killing an animal reasonably believed to constitute a threat for injury
66 or damage to any property, livestock, or poultry.
67 (2) The method used to injure or kill such animal shall be designed to be as humane as
68 is possible under the circumstances. A person who humanely injures or kills an animal
69 under the circumstances indicated in this subsection shall incur no civil or criminal
70 liability for such injury or death."

71 **SECTION 2.**

72 All laws and parts of laws in conflict with this Act are repealed.